

REMARKS

This application has been reviewed in light of the Office Action dated May 12, 2010. Claims 1 and 4-13 are presented for examination, of which only Claim 1 is in independent form. Claim 2 has been canceled without prejudice or disclaimer of subject matter. Claims 1, 4-8 and 10-12 have been amended. Favorable reconsideration is requested.

A Replacement Sheet of drawings is attached which includes amendments to Fig. 2a. In the Replacement Sheet, Fig. 2a now includes a reference number "20a" identifying the "annular body" referred to in Claim 1.

The Examiner is thanked for the courtesies extended during the telephonic interview held on May 20, 2010, to discuss the repeated objections and rejections noted in the Office Action dated May 12, 2010. It is believed that this response, in conjunction with the Interview Summary issued by the Examiner on May 25, 2010, represents a complete written statement as to the substance of the interview, in accordance with M.P.E.P. § 713.04.

The drawings were objected to under 37 C.F.R. § 1.83(a) for reasons similar to those set forth in the prior Office Action dated January 28, 2010. The drawings were objected to under 37 C.F.R. § 1.83(a) for allegedly not showing the following recited features of the claims: spring section (Claim 1); engagement section (Claim 1); annular body (Claim 6); retaining section (Claim 7); and an elongated sections (Claims 7 and 8). As discussed during the interview, Applicant respectfully traverses the objection, because those elements were identified in the Amendment dated April 28, 2010. Although it is not

conceded that the objections are correct or valid, the specification and Fig. 2a have been amended in an effort to expedite the allowance of this application. However, with regard to showing “a retaining section located on one elongated section, and the engagement section located on the other elongated section” and “an elongated section bearing the engagement section being recessed relative to the ends of the curved sections that are connected by this elongated section”, Applicant submits that these features are shown at least in Fig. 2a and are described at least in the specification from the paragraph bridging pages 6 and 7 through the second full paragraphs of page 7. Accordingly, Applicant believes that the objections to the drawings have been obviated and respectfully request that they be withdrawn.

Claims 1, 2, 4-11 and 13 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Office Action identifies the phrase “arranged thereon” in Claim 1 as being indefinite. While the Examiner courteously agreed, during the interview, to withdraw this rejection, the above amendment to Claim 1 makes this rejection moot.

Claims 1, 2, 4 and 10-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Reissue No. 30,326 (van Buren, Jr., hereinafter “van Buren”). Claims 6-9 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over van Buren. Applicant submits that independent Claim 1, together with the remaining claims dependent thereon, is patentably distinct from the cited prior art for at least the following reasons.

Claim 1 is directed to a cover for a manhole top that includes a cover body and at least one locking means arranged on the cover body. The locking means includes a spring section, a retaining section, and an engagement section. The engagement section is arranged on the spring section, and the engagement section is constructed to engage a part of a frame. The spring section has two ends that are joined together at the retaining section and are connected to the retaining section. The retaining section is attached to the cover body so as to space the spring section from the cover body. The engagement section is arranged between the two ends of the spring section, and the spring section is formed as an annular body. The spring section extends in a plane that is substantially parallel to the cover body.

Among other notable features of the cover of Claim 1 is the spring section of the locking means. The spring section has two ends that are joined together at the retaining section and are connected to the retaining section, and the spring section is formed as an annular body. By virtue of the arrangement of Claim 1, as discussed in the second full paragraph of page 2 of the specification of this application: "On account of the inventive construction, the spring section functions in the manner of a leaf spring that is fixed at both ends. It has become evident in this context that the inventive construction permits realization of a locking system that functions with particular effectiveness while at the same time being especially easy to use."¹

¹/It is to be understood that the scope of the claims is not limited by the details of this or any other feature or benefit that may be referred to.

Another notable feature of Claim 1 is the retaining section, which is attached to the cover body so as to space the spring (which is formed as an annular body) section from the cover body. Also, the spring section has two ends that are joined together at the retaining section and are connected to the retaining section.

Moreover, according to Claim 1, the spring section extends in a plane that is substantially parallel to the cover body. By virtue of this feature, the spring section size or depth of extension from the cover body can be reduced. As discussed in the first paragraph at page 8 of the specification of the present application, by virtue of this feature in conjunction with the features of the retaining section, the annular body is spaced from the cover body, the annular body can be easily formed as a single piece on the cover body with the aid of the retaining section, and further, can be easily made of the same material as the cover body.

Nothing has been found in van Buren that is believed to teach a spring section that has two ends that are joined together at the retaining section and are connected to the retaining section, much less a spring section formed as an annular body. Van Buren describes a closure member 10, which is formed by a plate 12 that has an array of flexible, resilient fingers 14 that are designed to resiliently engage the wall P' of an aperture A in a panel P. See van Buren at Figs. 1-3 and col. 3, lines 21-51. Contrary to the spring section of Claim 1, which is formed as an annular body, each of the fingers 14 has a free end. Therefore, because the finger 14 in van Buren does not have two ends that are joined together at a retaining section, and the finger 14 is not an annular body, van Buren cannot teach the spring section of Claim 1.

It should be noted that the fingers 14 shown in Figs. 1 and 3 and the fingers 64 shown in Figs. 5 and 6 extend in a plane (i.e., a vertical plane) that is not substantially parallel to the cover body (i.e., flat plate 12), but is instead apparently perpendicular to the flat plate 12, as shown by the cross-sectional views of Figs. 3 and 5. Accordingly, Applicant strongly believes that van Buren fails to disclose that “the spring section extends in a plane that is substantially parallel to the cover body”, as recited in Claim 1.

Moreover, nothing has been found in van Buren that is believed to teach or suggest the retaining section of Claim 1. During the interview the Examiner argued that the fingers 14 shown in Fig. 1 of van Buren correspond to the spring section of Claim 1 and that each of the fingers 14 have four (4) ends (32a, 32b, 42 (Fig. 2), and 32) that are attached to the flat plate 12, either directly or indirectly. During the interview, the Examiner further argued that the free end 68e of finger 64 shown in Fig. 4 of van Buren terminates at or above the bottom of the depression 66 and therefore the bottom of the depression 66, in conjunction with the finger 64, form an annular body.

Assuming for argument’s sake that the Examiner’s interpretation of van Buren were correct, which Applicant does not concede, that interpretation ignores that the retaining section of Claim 1 is attached to the cover body so as to space the spring section, which is formed as an annular body, from the cover body. Accordingly, even in a case where the free end 68e of the finger 64 of van Buren contacts the depression 66, the free end 68e cannot be deemed to correspond to part of the spring section, because the finger 64 would not be spaced from the plate 62 (i.e., cover body). Accordingly, the finger 64 of Fig.

4 as well as the finger 14 of Fig. 1, cannot be considered to correspond to the locking means of Claim 1.

Moreover, nothing has been found in van Buren that would teach or suggest the provision of a spring section that extends in a plane that is substantially parallel to the cover body. Contrary to the spring section recited in Claim 1, the fingers 14 shown in Fig. 1 of van Buren are not seen to extend in a plane that is substantially parallel to the cover body. Apparently, in van Buren, the fingers 14 extend in a plane which appears to be perpendicular to the plate 12. See, van Buren, Figs. 1-5.

Accordingly, for at least these reasons, Applicant submits that Claim 1 is allowable over van Buren.

Claims 6-9 and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over van Buren, as set out at pages 6 to 8 of the Office Action. With regard to Claim 6, the Office Action asserts that “[a]lthough van Buren explicitly uses the term ‘oblong’ to describe a different shape or embodiment of the annular body, it should be understood that an oblong circle is generally called an oval. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the shape of the annular body of van Buren using an oval or oblong shape with two curved sections and two essentially elongated sections connecting these two curved sections to one another.” Applicant respectfully disagrees with this assertion because, for reasons provided with respect to Claim 1, van Buren does not teach or suggest an annular body at all. Therefore, the distinction between an oblong body and an oval body is not seen to be

relevant to distinguishing between the claimed features and the arrangement described in van Buren.

Accordingly, for at least these additional reasons, Applicant submits that Claims 6-9 and 13 are allowable over van Buren.

The other claims in this application depend from Claim 1, and, therefore, are submitted to be patentable for at least the same reasons discussed above in connection with Claim 1. Since each dependent claim is also deemed to define an additional aspect of the invention, however, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

This Amendment After Final Action is believed clearly to place this application in condition for allowance and, therefore, its entry is believed proper under 37 C.F.R. § 1.116. Accordingly, entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, it is respectfully requested that the Examiner contact Applicant's undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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